Before the

Federal Communications Commission

Washington, D.C. 20554

In the Matter of	)	
	)	
High Cost Universal Service Support	)	**WC Docket No. 05-337**
Federal-State Joint Board on Universal Service	)	**CC Docket No. 96-45**
	)	
	)	

COMMENTS BY:

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EXECUTIVE SUMMARY

Range Telephone Cooperative, Inc. ("Range"), along with its wholly-owned subsidiaries Advanced Communications Technology, Inc. ("ACT"), Dubois Telephone Exchange, Inc. ("DTE"), and RT Communications, Inc. ("RT"), is fully supportive of comprehensive universal service reform. However, it is important for the Federal Communications Commission ("Commission") to be prudent with respect to any reforms and how they may impact rural consumers and the carriers that serve them.

The most critical universal service reform that must be made immediately is for the Commission to replace the identical support rule with an actual cost model for wireless competitive eligible telecommunications carriers ("CETC"). It has become increasingly apparent that the primary cause of the growth in the high-cost fund has been the proliferation of wireless CETC support under the current identical support rule. Under the identical support rule, wireless carriers have been allowed to receive high cost support with no bearing to either their actual costs of providing service or to any obligations these carriers may have with respect to providing service in rural high cost markets.

Range believes two models, recently introduced to the record, deserve serious and thorough consideration. These models are the Wireless Carrier Actual Cost ("WiCAC") and the Panhandle Proposal. Both WiCAC and the Panhandle Proposal, either individually or as part of comprehensive universal service reform, offer realistic, functional, and rational alternatives to the identical support rule. Furthermore, both WiCAC and the Panhandle Proposal would incorporate a much needed element of accountability for wireless CETC receipt of high cost fund support. Finally, targeted reform, such as WiCAC and the Panhandle Proposal would mitigate or eliminate the need for more drastic, and untested, reform concepts like reverse auctions or other competitive bidding schemes for universal service.

Reverse auctions or other competitive bidding schemes for the receipt of rural universal service funding are unnecessary, untested and subject to gaming and numerous other practical problems. Reverse auctions would discourage network investment in rural markets, limit the ability of carriers to continue to provide advanced communications comparable to urban markets (as required by the Telecommunications Act of 1996), force lenders to be much more restrictive with respect to providing capital necessary to build rural infrastructure (if they would loan at all), create an environment where quality of service would be degraded over time since the lowest bidder could only provide service to the level funded, and potentially jeopardize public safety, homeland security and disaster recovery systems. Universal service is simply too important to impose untested concepts that could totally devastate the ability of rural consumers to continue to have access to affordable communications services that are reasonably comparable to what consumers enjoy in the more populated areas of our country.

INTRODUCTION AND BACKGROUND

Range Telephone Cooperative, Inc. (“Range”), along with its wholly-owned subsidiaries, Advanced Communications Technology, Inc. (“ACT”), Dubois Telephone Exchange, Inc. (“DTE”), and RT Communications, Inc. (“RT”), respectfully submits these Comments in response to the three USF Public Notices[1] released by the Federal Communications Commission (“Commission”) on January 29, 2008. Range and its subsidiaries provide basic and advanced communications services to rural consumers primarily in Montana and Wyoming, with a small number of our customers residing in Colorado and South Dakota.

Range itself is a local exchange carrier providing communications services to customers in southeastern Montana and northeastern Wyoming. Established in 1953 as a non-profit cooperative, Range currently serves over 6,000 subscribers in eighteen telephone exchanges. Included are the six Montana counties of Rosebud, Treasure, Custer, Powder River, Carter and Big Horn, and the five Wyoming counties of Campbell, Johnson, Weston, Sheridan and Crook. In addition to core telecommunications services, through its subsidiary, ACT, Range offers computer services, Internet, phone systems for both residential and business applications, networking solutions and long distance services. Range has also established a wireline, facilities-based competitive local exchange carrier (“CLEC”) operation in Montana.

[1] *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service,* Notice of Proposed Rulemaking, WC Docket No. 05-337; CC Docket No. 96-45, FCC 08-22 (Joint Board Comprehensive High Cost Recommended Decision Notice), FCC 08-4 (Identical Support Rule Notice), FCC 08-5 (Reverse Auctions Notice).

Advanced Communications Technology, Inc.

Advanced Communications Technology, Inc. (“ACT”) is a wholly-owned subsidiary of Range and was established in 1997 to conduct non-regulated, for-profit business operations for the entire Range Family of Companies comprised of ACT, DTE, Range and RT. ACT is a full-service CLEC and Competitive Access Provider (“CAP”) offering voice, video, data and mobile wireless services in Sheridan, Dayton, Ranchester, Story, Buffalo and Gillette, Wyoming. ACT also offers Private Line transport services throughout Montana and Wyoming. Additional competitive service offerings include long-distance, dial-up, DSL and Satellite Internet, computer services business communications systems and video teleconferencing.

Dubois Telephone Exchange, Inc.

Dubois Telephone Exchange, Inc. (“DTE”) has been providing communications service to rural Wyoming since 1930 and rural Colorado since 1980. Operating as a wholly-owned commercial subsidiary of Range since 1991, DTE serves approximately 2,500 customers, including a large portion of the Wind River Reservation of the Eastern Shoshone and the Northern Arapaho. DTE offers state-of-the-art communications to all of its rural Wyoming and Colorado customers. Further, in addition to its core local exchange services, DTE provides an advanced suite of services including wireline DSL, which is available to approximately 95% of its customers.

RT Communications, Inc.

RT Communications, Inc. ("RT") was created through the vision of Range's Board of Trustees to provide the latest in communications services to rural Wyoming consumers. The opportunity came with the announcement of US West's intention to sell 26 of its Wyoming exchanges in February 1993[2]. Range was successful in its bid for 16 of the 26 Wyoming exchanges in June 1993, and in July, filings to the Commission were made naming the newly created Wyoming subsidiary, RT Communications, Inc. RT currently provides state-of-the-art communications services to approximately 15,400 customers residing in a service territory slightly less than 10,000 square miles. In addition to its core local exchange services, RT offers advanced communications to all of its customers and currently is able to provide DSL and other broadband service options to approximately 94% of its customers.

THE IDENTICAL SUPPORT RULE SHOULD BE ELIMINATED

In recent years it has become increasingly apparent that the primary cause of the growth in the high-cost fund has been the proliferation of wireless Competitive Eligible Telecommunications Carriers ("CETCs") support under the current "identical support rule" [47 C.F.R. §54.307(a)]. Under the identical support rule, wireless carriers have been allowed to receive high cost support with no bearing to either their actual costs of providing service or to any obligations these carriers may have with respect to providing service in rural high cost markets. Furthermore, due to the marketing tactics of wireless carriers, many wireless carriers in rural markets are receiving portable support for

[2] RT serves approximately 90 rural South Dakota customers out of the Wyoming East Newcastle exchange.

multiple members in the same household. For example, the same wireless carrier may receive three (3) or four (4) times (or more) the support the corresponding rural local exchange carrier ("RLEC") receives for the same household based upon portable identical support if the wireless carrier has sold three (3) or four (4) phones to different members of the household – which has become a very common practice in the industry.

The application of the portable identical support rule, along with other Commission decisions since the Telecommunications Act of 1996, has led to the Universal Service Fund growing from $955 million in 1996 to over $7 billion in 2007. This is well documented by McLean & Brown in *Universal Service: Rural Infrastructure at Risk*[3]. While some of this increase is due to growth within the telecommunications industry, the vast majority of the growth has been the result of Commission decisions relating to access charge changes, portability of support to wireless CETCs, re-indexing of caps from the high-cost loop fund, and the Schools and Libraries Fund.[4] Indeed, the incumbent local exchange carrier ("ILEC") high cost fund has remained relatively flat since 1998, while CETCs (predominately wireless) have increased the fund by over $1 billion since 2002.[5] As the report states, "Wireless ETC funding (which did represent new money to wireless carriers) has been the largest contributor to fund growth since 2003."[6] Furthermore, this is *new money* for wireless ETCs; it is not funding for their placement of facilities or replacement of access service revenues (which has been the case for incumbent carriers). Wireless ETCs have also received this funding despite the fact that they have no defined obligations to use these funds in providing service to the very

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[3] McLean & Brown, *Universal Service: Rural Infrastructure at Risk,* Release 3.0 (October, 2007).
[4] *Id*., at pp 24-26.
[5] *Id.,* chart at p. 26.
[6] *Id*., at p. 26.

markets for which they are receiving the funding. Clearly, it is time for the Commission to eliminate the identical support rule. Range applauds the Commission for its tentative conclusions reached in paragraph 5 in the Identical Support Rule Notice, which states:

> "To ensure the sufficiency of the universal mechanism, we believe that the Commission must fundamentally reform how we distribute support under the existing high-cost mechanism. We therefore tentatively conclude that we should eliminate the Commission's identical support rule for competitive ETCs, which bears no relationship to the amount of money such competitive ETCs have invested in rural and other high-cost areas of the country. We further tentatively conclude that a competitive ETC should receive high-cost support based on its own costs, which better reflect real investment in rural and other high-cost areas of the country, and which creates greater incentives for investment in such areas."[7]

WiCAC IS A FEASIBLE AND WORKABLE ACTUAL COST SOLUTION

At paragraph 13 of the Identical Support Rule NPRM, the Commission has requested comments on the Wireless Carrier Actual Cost ("WiCAC") proposal, developed by GVNW Consulting, Inc. ("GVNW"). On July 12, 2007, GVNW introduced the WiCAC model to the Commission as an alternative to the identical support rule[8]. Simply stated, WiCAC is a cost-based model employing 23 accounts to calculate wireless ETC high-cost loop support in a similar manner to what is currently used to calculate support for wireline ETCs.

Obviously, in order to determine costs on a common basis, the mechanism by which costs are determined must be the same. Recognizing that not all competitors maintain cost accounting records on the same basis, GVNW has done an outstanding (and long overdue) job of mapping common cost categories for wireless carriers to the

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[7] *Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, FCC 08-4 (rel. January 29, 2008) (*Identical Support Rule NPRM*), at ¶ 5.
[8] Letter from Jeffry H. Smith to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 05-337 and CC Docket No. 96-45 (filed July 12, 2007) (WiCAC Proposal Letter).

classifications of cost required of ILECs. What is most admirable is that WiCAC accomplishes the task of providing for an 'equal basis' for cost calculation between wireline ILECs and wireless CETCs without being overly regulatory or burdensome for wireless carriers. WiCAC incorporates only 23 accounts and it takes only moments of review to recognize the simplicity of the process and that requiring its use is not only reasonable but will impose no more significant administrative burden than that required of incumbents in preparing their USF submissions. Once mapping is complete, the standard prescribed USF algorithms will calculate support requirements on an equal basis. For an industry segment that is now receiving over $1 billion (and growing) in high-cost fund support, to map their costs to only 23 accounts does not seem unreasonable, particularly since all ETCs are required to certify to state regulatory commissions that they have the 'managerial, technical and financial expertise' to operate as an ETC. Therefore, it is perfectly reasonable (indeed, expected) for these firms to have the capabilities to identify 23 basic balance sheet and income statement accounts.

Range is most disappointed at the content of AT&T's ex-parte discussions with Ian Dillner of Chairman Martin's office on October 4, 2007 as reflected in the attachment to the letter of Mary L. Henze to Ms. Marlene Dortch of the same date[9]. AT&T's criticism of actual cost use is best explained by the statement that the proposed mechanism "…*biases the support calculation to decrease wireless support levels*[10]." How telling, for if going to actual cost will decrease wireless support levels, then not only

[9] Letter from Mary L. Henze to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 05-337 (filed October 4, 2007) (AT&T Ex-Parte Letter).
[10] *Id.*, at p. 2.

is the use of actual costs long overdue, it would finally halt the competitive inequity, the abuse of the process and the runaway growth that has now created a crisis.

On the first page of its ex-parte filing, AT&T asserts that actual cost methodologies are "*highly regulatory*"[11]. Of course they are and they should be. Receiving funding for high-cost support is, and absolutely should be, subject to regulatory scrutiny in order to assure the consumer, the regulator and the legislator that only necessary funding is provided. Furthermore, this oversight is necessary to ensure that the funding is being used for the purposes intended and that the results achieve public policy objectives. Obviously, if payments which are not based on actual costs are higher than they would be if actual costs were used (as AT&T indicated), then the existing process is simply a means to provide wireless ETCs with additional revenues and there are no assurances that any public policy objectives are being met. Incumbent LECs have recently undergone increasing scrutiny and frequency with respect to USF audits for these very reasons. According to the FCC's Office of Inspector General and USAC data, recent Improper Payment Information Act ("IPIA") audits, which are managed by USAC's Internal Audit Division, included 459 total audits (65 high cost fund audits) in "Round 1" at a total actual cost of approximately $27.5 million. IPIA "Round 2" audits, which are currently underway, will include 390 high cost fund audits, up from 65 in Round 1, and 260 Schools & Libraries fund audits (650 total audits). The amount USAC projects to spend on Round 2 audits is approximately $87 million.[12] This is in addition to

[11] *Id.*, at p. 1.
[12] *See* Remarks made by Paul Hartman, FCC's Office of Inspector General, at the NTCA Telecom Executive Forum, Westin Harbor Island Hotel, Tampa, FL, on March 17, 2008; Remarks made by Jason Williams, Chair of USAC's Audit Committee, at the Western Telecommunications Alliance Spring Annual Meeting, Napa, California, on April 1, 2008; *see also* USAC Quarterly Filings, Attachment MO 1 available on-line at http://www.usac.org/about/governance/fcc%2Dfilings/; *see also "Initial Statistical Analysis of Data from 2006/2007Compliance Audits,"* FCC's Office of Inspector General (rel. Oct. 3, 2007).

the $20.48 million the FCC transferred from the USF as part of its 2008 budget for "audits and investigations by the FCC Office of Inspector General" and to "monitor [the USF] program."[13] It is only reasonable to expect CETCs to be willing and able to withstand the same level of oversight, review and audit should they wish to continue to receive high-cost support.

AT&T also indicated, in attempting to convey wireline versus wireless differences, that "*Costs associated with providing wireless service are not per-line or per customer sensitive like wireline service; wireless costs are generated more by demand for minutes which can come* ***in areas where no customers reside (i.e., along highways)****"*[14] (emphasis added). We can only suggest that AT&T visit Montana and Wyoming where we can very easily show mile after mile after mile along highways of distribution facilities without customers, but, just like AT&T Wireless, necessary to connect rural consumers to the network.

One of the most encouraging aspects of WiCAC is that it will reward wireless carriers that invest in rural infrastructure. As indicated above, Range serves very rural areas of Montana and Wyoming which include miles and miles of interstate, federal and state highways that have limited or no wireless coverage. This is despite that fact that there are numerous wireless carriers in our states that have received CETC designation and are drawing millions of dollars of universal service support today[15]. With the WiCAC model, if a wireless CETC is investing in rural America, their high-cost fund

[13] *Id. See also* Federal Communications Commission, FY 2008 Budget Estimates Submitted to Congress February, 2007 at p 69, fn. 8-9.
[14] AT&T Ex Parte Letter, at p. 2.
[15] Wireless ETC's in Montana and Wyoming received $2,671,465 and $4,385,056, respectively, for 1st Quarter 2008 (combined this annualizes to over $28 million), USAC Report HC01 – High Cost Support 1Q08.

receipts will reflect this investment. If they are not investing in rural America, then they would no longer receive high-cost support.

Range supports comprehensive review and modification of the high-cost support programs. We believe that comprehensive reform is necessary in order to ensure the long-term stability of the fund, which is critical for rural telecommunications customers and providers. Accordingly, while we do not consider WiCAC the final or comprehensive solution to the problem, we do believe that it is an excellent first step in that it would provide accountability for all carriers – both wireless and wireline – receiving universal service funding. WiCAC is a reasonable, administratively workable, actual cost model for wireless carriers that could easily become part of an overall universal service reform solution.

THE PANHANDLE PROPOSAL MERITS SERIOUS CONSIDERATION

On January 11, 2008, Panhandle Telecommunications Systems, Inc. submitted its high-cost universal service proposal ("Panhandle Proposal")[16]. Like WiCAC, the Panhandle Proposal bases a carrier's high-cost support on its own costs and, if adopted, would mitigate if not eliminate the need for other universal service reforms, such as reverse auctions (to be commented on below). While the Panhandle Proposal was not submitted to the Commission in time for reference within the instant NPRMs, Range believes that the proposal has merit and warrants serious consideration by the Commission. Furthermore, Range believes that the concepts of the Panhandle Proposal and WiCAC are not mutually exclusive and there may be opportunities to incorporate

[16] Letter from Kenneth C. Johnson to Marlene H. Dortch, Federal Communications Commission, CC Docket No. 96-45 (filed January 11, 2008) (Panhandle Proposal Letter).

concepts from both proposals into a comprehensive long-term universal service reform solution[17].

In addition to replacing the current identical support rule with a model to base a carrier's high-cost support on its own costs, the Panhandle Proposal also contains an economic incentive for wireless carriers to use another carrier's network. This is particularly attractive due to the fact that in many rural areas of our country it is economically infeasible for there to be more than one wireless network absent significant universal service support. While the Panhandle Proposal does allow for multiple wireless carriers in the same region to receive targeted support, the incentive that is built into their plan for carriers to use another's network should mitigate the proliferation of multiple supported wireless carriers and help control the size and growth of the fund.

Range supports the position in the Panhandle Proposal that the receipt of high cost support comes with both ethical and fiscal obligations to use this support for the express purpose of providing service in high cost areas. The Panhandle Proposal applies this concept directly to wireless carriers by stating that:

[17] For example, a first step in synching the two plans may be to incorporate the WiCAC Part 32 accounts into the Panhandle Proposal as a way to determine actual costs for wireless carriers. At any rate, Range believes that both plans have merit and should be given due consideration by the Commission.

> *"…wireless carriers who directly or indirectly benefit from high cost support used to build out wireless networks in rural regions where multiple networks are cost prohibitive should be required to provide roaming on a non-discriminatory basis to other wireless carriers in their area and their customers. With the receipt of high cost support for wireless build out comes the obligation to share the high cost network with all customers who need access to the network.*"[18]

Range applauds this concept and supports the principle that wireless CETCs receiving high cost support should be required to make their network available at reduced rates to other wireless carriers licensed to serve in the same markets. This would provide both improved wireless coverage and service to rural consumers, but would also provide an economic incentive for carriers to use other carriers' networks and, thus, help to control both the size and growth of the fund.

Another element of the Panhandle Proposal that is attractive is that it includes a high-cost company cap of ten (10) times the national average cost per minute.[19] This cap (per company, not on the fund as a whole) would help prevent the support of inefficient and uneconomical networks. However, due to the nature of rural America – which can be notoriously expensive to serve and maintain due to rugged terrain, expansive geography and limited populations – the Panhandle Proposal wisely provides for a waiver process with the Commission so that carriers could petition the Commission in order to demonstrate, with sufficient supporting studies and/or documentation, that their costs are legitimately higher than the cap would allow.

While Range supports the principles behind the Panhandle Proposal, we do have some concerns and questions about some of the details of the plan. Specifically, we are concerned that using a cost-per-minute metric may allow for huge shifts in universal

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[18] Panhandle Proposal Letter*,* at p. 3.
[19] *Id.,* at p. 5.

service support from carrier to carrier and even from year to year with the same carrier due to the volumes of minutes the wireless industry generates. One possible solution may be to calculate the cost per minute to multiple decimal places, similar to the way incumbent carriers' access charges have been calculated for years; however, this needs to be further explored.

Another concern that we have with respect to the cost-per-minute calculation is that the record in the recent Missoula Plan proceedings[20] addressing phantom traffic and intercarrier compensation has shown that it is relatively easy for carriers to manipulate, arbitrage and misreport the minutes they use on other carriers' networks. Should the Panhandle Proposal be adopted, Range believes that this will further exacerbate the need for the Commission to finally resolve the Phantom Traffic and Intercarrier Compensation proceedings.

Finally, while the majority of the Panhandle Proposal addresses wireless CETCs, it does provide for wireline CETCs as well. Simply stated, the Panhandle Proposal for a wireline CETC would also be based upon its actual cost, capped at one and one-half (1.5) times a state's high cost support average per line for their rural telephone companies. Unlike wireless CETCs, wireline CETCs would be required to complete a cost study similar to what wireline ILECs perform. Again, this does not seem to be an overly burdensome requirement for carriers wishing to receive federal universal service fund support. While Range has not fully evaluated all of the implications of the Panhandle

[20] *See* Letter from Supporters of the Missoula Plan to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92 (filed November 6, 2006) (Missoula Plan Nov. 6 Ex Parte).

Proposal as it pertains to wireline CETCs, we support the concept and believe that it has merit and warrants consideration.

Finally, while Range does have the above described concerns and questions about the Panhandle Proposal, particularly with respect to basing wireless CETC support on a minute-of-use metric, we continue to be intrigued by the plan and hope that the Commission will give it due consideration as it explores rational long-term universal service reform solutions.

REVERSE AUCTIONS ARE NOT FEASIBLE FOR RURAL MARKETS

Range has grave concerns about the applicability of reverse auctions in rural markets. Reverse auctions are untested, unnecessary and would result in numerous negative impacts (both intended and unintended consequences) on the ability of carriers to continue to provide quality service in rural America. We believe that a more prudent approach is for the Commission to adopt the reforms and solutions offered by the WiCAC and Panhandle Proposals. Should the Commission incorporate all or most of the principles in these two proposals in a universal service reform order, we believe that the majority of the problems associated with the growth and size of the fund would simply go away. To replace an admittedly broken system with an untested reverse auction regime, given the well-documented[21] potential negative consequences of reverse auctions to consumers in rural and high cost areas, would be very ill advised.

[21] The Commission has explored reverse auctions or related competitive bidding mechanisms in a number of proceedings dating back ten (10) years and after multiple rounds of comments and reply comments the record still shows that reverse auctions would be harmful to consumers living in rural and high cost areas.

Specifically, none of the reverse auction proposals have been able to sufficiently address numerous concerns with respect to any competitive bidding system for universal service support. These concerns include, but are not limited to, the fact that reverse auctions would discourage network investment in rural markets, limit the ability of carriers to continue to provide advanced communications comparable to urban markets (as required by the Telecommunications Act of 1996[22]), force lenders to be much more restrictive with respect to providing capital necessary to build rural infrastructure (if they would loan at all), create an environment where quality of service would be degraded over time since the lowest bidder could only provide service to the level funded, and potentially jeopardize public safety, homeland security and disaster recovery systems.

Furthermore, it remains very unclear as to how any reverse auction or competitive bidding process could work given the enormous variety and complexity of the existing rural telecommunications industry. The administrative complexity that such a program would require would most assuredly lead to design flaws, gaming opportunities, omissions and numerous unintended consequences. Simply put, there remain too many questions and potential negative ramifications to impose any form of competitive bidding for such a critical national program as universal service funding for rural America.

[22] 47 U.S.C. §254(b)(3) – *Access in rural and high cost areas. – Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and* ***advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas****.* (emphasis added).

CONCLUSION

Range is fully supportive of comprehensive universal service reform. However, we believe that it is critical for the Commission to be prudent with respect to any reforms and how they may impact rural consumers and the carriers that serve rural America. It is beyond question that the identical support rule has outlived its usefulness (if it ever was 'useful') and must be replaced with an actual cost model for wireless CETCs. Both WiCAC and the Panhandle Proposal, either individually or as part of broader universal service reform, offer realistic, functional, and rational alternatives to the identical support rule. Furthermore, both WiCAC and the Panhandle Proposal would incorporate a much needed element of accountability for wireless CETC receipt of high cost fund support. Finally, targeted reform, such as WiCAC and the Panhandle Proposal would mitigate or eliminate the need for more drastic, and untested, reform concepts like reverse auctions or other competitive bidding schemes for universal service. Universal service is simply too important to impose untested concepts that could totally devastate the ability of rural consumers to continue to have access to affordable communications services that are reasonably comparable to what consumers enjoy in the more populated areas of our country.

Respectfully submitted,

Via ECFS on April 17, 2008

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